

DEC 26 2007

CATHY A. CATTERSON, CLERK
U.S. COURT OF APPEALS

NOT FOR PUBLICATION

UNITED STATES COURT OF APPEALS

FOR THE NINTH CIRCUIT

ERICK T. COOMES, an individual, d/b/a
E. Danger Music; et al.,

Plaintiffs - Appellees,

v.

AKBAR SHAMJI,

Defendant - Appellant.

No. 06-55411

D.C. No. CV-05-03483-PA

MEMORANDUM^{*}

Appeal from the United States District Court
for the Central District of California
Percy Anderson, District Judge, Presiding

Submitted December 6, 2007**
Pasadena, California

Before: SILVERMAN, WARDLAW, and IKUTA, Circuit Judges.

The district court did not err in holding that Akbar Shamji was properly
served pursuant to Federal Rule of Civil Procedure 4 and California Civil

^{*} This disposition is not appropriate for publication and is not precedent
except as provided by 9th Cir. R. 36-3.

^{**}The panel unanimously find this case suitable for decision without oral
argument. Fed. R. App. P. 34(a)(2).

Procedure Code section 415.20(b). The three previous service attempts constituted the requisite “reasonable diligence.” *See, e.g., Ellard v. Conway*, 114 Cal. Rptr. 2d 399, 402 (Ct. App. 2001). Bardic Records was Shamji’s business enterprise, and thus the Bardic office where service was delivered was Shamji’s “usual place of business.” *See* Cal. Civ. Proc. Code § 415.20 judicial council’s cmt. subdiv. b. The complaint and summons were left with the managing agent of Bardic Records who was able to accept packages for, and deliver packages to, Shamji, and was thus “apparently in charge.” *See Ellard*, 114 Cal. Rptr. 2d at 403.

Contrary to Shamji’s assertion, the district court did not rely on actual notice to establish personal jurisdiction. The district court did not err in finding that Shamji had actual notice and deliberately chose not to respond; thus his own culpable conduct was the cause of his default. The district court’s factual findings are supported by the record and are not clearly erroneous. *See Direct Mail Specialists, Inc. v. Eclat Computerized Techs., Inc.*, 840 F.2d 685, 688 (9th Cir. 1988). In light of Shamji’s culpable conduct, it is not necessary to consider whether he had any meritorious defenses. *See Franchise Holding II, LLC v. Huntington Rests. Group, Inc.*, 375 F.3d 922, 926 (9th Cir. 2004).

Shamji's default, which admits all well-pled allegations, coupled with the declarations submitted to the district court, support the relief granted in the judgment.

AFFIRMED.